

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ORDER AMENDING RULES 6, 7, §
9, AND 32 OF THE RULES OF §
THE SUPREME COURT OF §
DELAWARE §

Before **STRINE**, Chief Justice; **HOLLAND, VALIHURA, VAUGHN**, and **SEITZ**, Justices, constituting the Court *en banc*.

ORDER

This 21st day of May 2015, it appears to the Court that it is desirable to amend Supreme Court Rules 6, 7, 9, and 32 in light of the Delaware Rapid Arbitration Act. These amendments are effective June 1, 2015.

(1) Existing Supreme Court Rule 6(a)(ii) shall be renumbered 6(a)(iii) and existing Supreme Court Rule 6(a)(iii) shall be renumbered 6(a)(iv). Supreme Court Rule 6(a)(ii) shall be amended to read:

Challenges to a final award under the Delaware Rapid Arbitration Act. Within 15 days after issuance of the final award.

(2) Existing Supreme Court Rule 6(b)(ii) shall be renumbered 6(b)(iii). Supreme Court Rule 6(b)(ii) shall be amended to state:

Challenges to a final award under the Delaware Rapid Arbitration Act. In any arbitration proceeding in which a timely notice of appeal is filed by a party, any other party may file a notice of appeal within 7 days after the date on which the first notice of appeal was served, or within 15 days after issuance of the final award to which the challenge is made, whichever is later.

- (3) Supreme Court Rule 7(a) shall be amended to add the following

language:

(a) Notice of appeal. An appeal shall be commenced by a notice of appeal. The notice of appeal shall be served in duplicate upon an attorney of record for each party to the proceeding below; if there is no such attorney it shall be served upon each party in the manner provided in these Rules for service of papers. Immediately following such service, such appellant shall file with the Clerk of this Court such notice, in duplicate, together with proof of service as provided in these Rules. The Clerk shall forthwith forward the duplicate thereof to the clerk of the trial court for filing in such court or to the arbitrator. Appeals from interlocutory orders shall be governed by Rule 42.

- (4) Supreme Court Rule 7(c)(1) shall be amended to add the following

language:

Court or arbitrator. Name the court from which the appeal is taken, name the judge entering the judgment and identify the case number therein, or provide the name and address of the arbitrator and identify the final award to which the challenge is made;

- (5) Supreme Court Rule 7(c)(3) shall be amended to strike and add the

following language:

Judgment or award reviewed. Designate the judgment ~~or~~, order or final award, or part thereof, sought to be reviewed and the date thereof and, in a direct appeal of a criminal conviction, state the names of all codefendants with whom the appellant was tried, the date of the sentence from which the appeal is taken; and where the appeal is taken more than 30 days after the entry of the judgment or order sought to be reviewed, or, in the case of an arbitration under the Delaware Rapid Arbitration Act, more than 15 days after issuance of the final award to which challenge is made, the factual and legal grounds for the appeal time being tolled;

- (6) Supreme Court Rule 7(c)(9) shall be amended to add the following

language:

Copy of judgment or final award to be reviewed. A copy of the order of judgment or final award sought to be reviewed, and any separate rationale for it, if available, shall be attached to the notice of appeal and to the notice of cross appeal if different from the notice of appeal, and if not available, a statement indicating such unavailability shall be included.

- (7) Supreme Court Rule 7(f) shall be amended to add the following

language:

Death of a party.

(i) Before notice of appeal is filed. In civil cases or arbitrations under the Delaware Rapid Arbitration Act, if a party entitled to appeal shall die before filing a notice of appeal, the same may be filed by the personal representative of the party; if the party has no personal representative, the same may be filed by the attorney of record for the party in the trial court or before the arbitrator within the time prescribed by law.

- (8) Supreme Court Rule 9(bb) shall be amended to add the following

language:

Sealing of court records. In any appeal except from Family Court, any document or other part of the record which has been sealed by order of the trial court or submitted to the arbitrator as confidential shall remain sealed unless this Court, for good cause shown, shall authorize the unsealing of such document or record. In appeals originating in the Family Court, the record and documents filed with the Clerk of this Court and all proceedings shall remain confidential unless otherwise ordered by the Court, sua sponte, or for good cause shown upon application by a party. After the filing of any brief under seal, in any appeal except from Family Court, one original and one copy of a redacted brief should be filed with the Court within 15 days.

(9) Supreme Court Rule 9(e) shall be amended to strike and add the following language:

Transcript. ~~The~~ Except in challenges to a final award under the Delaware Rapid Arbitration Act, the following directions shall apply unless otherwise ordered by the Court:

(10) Supreme Court Rule 32(a) shall be amended to strike and add the following language:

Stay or injunction pending appeal. ~~A~~ Except in a challenge to a final award under the Delaware Rapid Arbitration Act, a motion for stay must be filed in the trial court in the first instance. The trial court retains jurisdiction over the initial motion and must rule on the initial motion regardless of whether the case is on appeal to this Court. A stay or an injunction pending appeal may be granted or denied in the discretion of the trial court, whose decision shall be reviewable by this Court. The trial court or this Court, as a condition of granting or continuing a stay or an injunction pending appeal, may impose such terms and conditions, in addition to the requirement of indemnity, as may appear appropriate in the circumstances.

(11) Supreme Court Rule 32(c) shall be amended to add the following language:

Supersedeas bond or other security. A stay or injunction pending appeal shall be granted upon filing and approval of sufficient security. Such security shall be presented to and approved or disapproved in the first instance by the trial court. The type, amount, and form of the security shall be determined in the first instance by the trial court, whose actions shall be reviewable by this Court. The security shall be filed with the clerk of the trial court who shall forthwith give notice thereof to the attorney for the appellee. The security shall not be approved until notice of appeal has been served on the appellee and filed in the manner provided under these Rules. In a challenge to a final award under the Delaware Rapid Arbitration Act, this Court may make all determinations regarding the security.

(12) The Clerk of this Court is directed to transmit a certified copy of the Order to the clerk for each trial court in each county.

BY THE COURT:

/s/ Leo E. Strine, Jr.

Chief Justice